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EXAMINER

BLECK, CAROLYN M

ART UNIT PAPER NUMBER

3626

DATE MAILED: 04/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/681,306

Applicant(s)

KARRAS ET AL.

Examiner

Carolyn M. Bleck

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-9, 11-14, 16, 17 and 19-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-9, 11-14, 16-17, and 19-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed on 8 February 2006. Claims 1, 3-9, 11-14, 16-17, and 19-36 are pending. Claims 2, 10, 15, and 18 have been cancelled. Claims 1, 5, 7-9, 11, 13-14, 17, 19, 21, 24, 26, 28-29, and 33 have been amended.

Claim Objections

2. Claim 5, line 3, is objected to because of the following informalities: "generated" appears to be grammatically incorrect. Appropriate correction is requested.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Wood et al. (5,891,035).

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(A) As per claim 21, Wood discloses an ultrasonic diagnostic imaging system that is capable of accessing images and information from internal or external database over the Internet (Abstract) comprising:

(a) an ultrasound system which processes information to form ultrasonic images, wherein there are a plurality of ultrasound systems having wheels (Fig. 2, #200, #202) (Fig. 1-3, col. 2 line 60 to col. 3 line 10, col. 10 lines 43-56) (It is noted that an “ultrasound system” having wheels as is shown in Figure 2 is a “mobile facility” that is capable of being moved to a plurality of locations);

(b) a hospital information system or radiology information system for storing patient and physician data (Fig. 1-3, col. 2 lines 20-50, col. 2 line 60 to col. 3 line 10); and

(c) a modem for connecting to information sources, such as the ultrasound system (200) and the hospital information system (HIS) or radiology information system (RIS) (500), over the network, wherein patient and physician data is transmitted between the ultrasound system and the HIS/RIS, and the HIS/RIS is able to acquire information from the ultrasound system (reads on “mobile imaging unit/data center communication interface”) (Fig. 1-3, col. 2 lines 20-50, col. 9 lines 40-65, col. 10 lines 44-56).

(B) As per claim 22, Wood discloses a modem for connecting to information sources, such as a ultrasound operator (202) in a practice and the hospital information system (HIS) or radiology information system (RIS) (500), over the network, wherein patient and

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physician data is transmitted between the ultrasound operator using a browser and the HIS/RIS (Fig. 1-3, col. 2 lines 20-50, col. 2 line 60 to col. 3 line 37, col. 9 lines 40-65, col. 10 lines 44-56).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 4-5, 7-9, 11, 13-14, and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (5,924,074) in view of Wood et al. (5,851,186).

(A) As per claim 1, Evans discloses a medical records system that is accessible to remotely located health care providers (Abstract; col. 12 line 55 to col. 13 line 30) comprising:

(a) a point of care system to capture patient data at a point of care, wherein the health care provider is able to enter, review, annotate, analyze, and process patient data using the point of care system, wherein the patient data that is entered using the point of care system is stored in the patient data repository in a patient record (col. 4 line 64 to col. 5 line 28, col. 6 lines 9-36, col. 16 lines 2-16) (It is noted that entering data into a point of care system is considered to be a form of "a data generator for generating medical data storable in a data center");

(b) at least one point of care system (see the plurality of healthcare providers in Fig. 24, 416-420) for accessing and retrieving patient data from the patient data repository, wherein the point of care system issues a request for patient data, wherein the patient locator receives the request from the point of care system and communicates a patient ID (PID) to the data manager which locates the patient record using the PID, wherein the data manager delivers the requested data to the point of care system (Fig. 24, col. 3 lines 17-23, col. 8 line 61 to col. 9 line 13, col. 9 lines 37-60, col. 14 line 64 to col. 15 line 7, col. 18 lines 43-50) (It is noted that the point of care system of Evans is considered to be a form of “at least one data retriever”); and

(c) a patient data repository for storing and organizing patient data for access by the point of care system, wherein the point of care systems access the patient data repository from any geographical location, wherein for example, a point of care system used by a healthcare provider in Boston is able to access data on a server at Scripps Health (Fig. 24, col. 4 line 64 to col. 5 line 7, col. 13 lines 19-30, col. 14 line 64 to col. 15 line 2, col. 16 lines 44-53).

Evans discloses having data in a patient record captured by the point of care system and incorporated from external sources (e.g., a digital x-ray image file stored in raster pixel format) (col. 8 lines 29-38). However, Evans fails to expressly disclose that the data generator is a mobile imaging unit, wherein the mobile imaging unit is a mobile facility adapted to be used at a plurality of locations.

Wood discloses an ultrasound system accessible by a remotely located personal computer, wherein the ultrasound system forms ultrasonic images, which are stored in

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an image store, wherein the ultrasound system, wherein there are a plurality of ultrasound systems having wheels (Fig. 1, 15-17, col. 2 line 60 to col. 3 line 20, col. 12 line 66 to col. 13 line 26, col. 15 lines 23-43). It is noted that an "ultrasound system" having wheels as is shown in Figure 15-17 is a "mobile facility" that is capable of being moved to a plurality of locations.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Wood within the system of Evans with the motivation of allowing remotely located healthcare providers to access patient data (Evans; col. 1 lines 63-66), including diagnostic data gathered through ultrasound systems (Wood; col. 1 lines 52-57).

(B) As per claim 4, Evans discloses the point of care system for accessing data being used by a healthcare provider in a healthcare facility, such as a hospital (Fig. 24, col. 5 lines 12-20, col. 12 line 55 to col. 13 line 30).

(C) As per claim 5, Evans discloses a point of care system to capture patient data at a point of care, such as in a hospital (reads on "health care facility"), wherein the health care provider is able to enter, review, annotate, analyze, and process patient data using the point of care system, wherein the patient data that is entered using the point of care system is stored in the patient data repository in a patient record (col. 4 line 64 to col. 5 line 28, col. 6 lines 9-36, col. 16 lines 2-16) (It is noted that entering data into a point of

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care system is considered to be a form of “a data generator for generating medical data storable in a data center”).

(D) As per claims 7 and 8, Evans does not expressly disclose the data generator generating medical images and medical reports.

Wood discloses the ultrasound system generating images and reports (See Fig. 1, reference numbers 22, 24a-b, Fig. 4-5, col. 2 line 60 to col. 3 line 20, col. 9 lines 54-59, col. 10 lines 13-26, col. 15 lines 23-33).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Wood within the system of Evans with the motivation of allowing remotely located healthcare providers to access patient data (Evans; col. 1 lines 63-66), including diagnostic and image data and reports gathered through ultrasound systems (Wood; col. 1 lines 43-57).

(E) Claim 9 repeats the limitations of claim 1, and is therefore rejected for the same reasons as claim 1. As per the recitation of the “mobile imaging unit” being geographically distinct from the data center, Wood discloses in Fig. 15-17 that the ultrasound systems are in different locations from the centralized server (col. 13 line 29 to col. 14 line 40).

(F) Claim 11 repeats the limitations of claims 4-5, and is therefore rejected for the same reasons as claims 4-5, and incorporated herein.

(G) Claim 13 repeats the limitations of claim 1, and is therefore rejected for the same reasons as claim 1, and incorporated herein.

(H) Claim 14 repeats the limitations of claims 4 and 5, and is therefore rejected for the same reasons as those claims, and incorporated herein.

(I) As per claim 33, Evans discloses a method for remotely accessing patient data (Abstract; col. 2 lines 45-64) comprising:

(a) accessing a patient data repository by a remotely located point of care system (i.e., from any geographical location) (Fig. 24, col. 2 lines 45-64, col. 2 line 65 to col. 3 line 3, col. 4 line 64 to col. 5 line 28, col. 13 lines 23-30); and

(b) retrieving patient data from the patient data repository (Fig. 24, col. 3 lines 17-23, col. 8 line 61 to col. 9 line 13, col. 9 lines 37-60, col. 14 line 64 to col. 15 line 7, col. 18 lines 43-50).

Evans fails to expressly disclose “a mobile imaging unit,” “wherein the mobile imaging unit is a mobile facility adapted to be used at a plurality of locations.”

Wood discloses an ultrasound system accessible by a remotely located personal computer, wherein the ultrasound system forms ultrasonic images, which are stored in an image store, wherein the ultrasound system, wherein there are a plurality of ultrasound systems having wheels (Fig. 1, 15-17, col. 2 line 60 to col. 3 line 20, col. 12 line 66 to col. 13 line 26, col. 15 lines 23-43). It is noted that an “ultrasound system”

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having wheels as is shown in Figure 15-17 is a "mobile facility" that is capable of being moved to a plurality of locations.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Wood within the system of Evans with the motivation of allowing remotely located healthcare providers to access patient data (Evans; col. 1 lines 63-66), including diagnostic data gathered through ultrasound systems (Wood; col. 1 lines 52-57).

(J) As per claim 34, Evans discloses the step of accessing patient data in the patient data repository of the electronic medical records system including providing several levels of security to access patient data by using a tiered password system, wherein a system administrator may have global password access to any patient data whereas a physician may have only access to patient records within their specialty (Fig. 1, col. 4 line 64 to col. 5 line 27, col. 15 lines 20-32). It is noted that Evan's tiered password system is considered to be a form of "authenticating access to the data center."

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (5,924,074) and Wood et al. (5,851,186) as applied to claim 1 above, and further in view of Wood et al. (5,891,035).

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(A) As per claim 3, Evans discloses the point of care system for accessing data being a desktop computer, laptop computer, or wireless pen computer (Fig. 24, col. 13 lines 12-15).

Evans and Wood fails to expressly disclose the data retriever comprising a mobile imaging unit.

Wood ('035) discloses an ultrasound system having direct access through a browser to pull ultrasound images, diagnostic images, or other patient and physician data located on other systems (Fig. 2, col. 2 lines 20-49, col. 8 lines 57-65, col. 9 line 65 to col. 10 line 22).

At the time the invention was made, it would have been obvious to include the features of Wood within the system of Evans with the motivation of providing a system operator with the ability to pull remotely located information into an ultrasound system to aid in an examination (Wood ('035); col. 1 lines 30-41).

8. Claims 6, 12, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (5,924,074) and Wood et al. (5,851,186) as applied to claims 1, 9, and 13 above, and further in view of Rothschild et al. (6,678,703).

(A) As per claim 6, Evans and Wood fail to expressly disclose the data center being an application service provider (ASP).

Rothschild discloses a medical image management system that uses a central data management system to store and transmit electronic records containing medical

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images, wherein the central data management system is an ASP (Abstract, Fig. 1, col. 6 lines 17-21, col. 19 lines 20-31, col. 19 lines 48-58, col. 21 lines 9-16).

At the time the invention was made, it would have been obvious to include the features of Rothschild within the system of Evans with the motivation of reducing the costs associated with maintaining image management facilities onsite by providing an application service provider that is able to manage the medical images off site and without a large capital expenditure on computer hardware or software (Rothschild; col. 4 lines 51-63; col. 7 lines 38-67).

(B) Claims 12 and 16 repeat the same limitations as claim 6, and are therefore rejected for the same reasons as claim 6, and incorporated herein.

9. Claims 17 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Background of the Invention (pages 1-4 of the specification filed on 3/15/01) in view of Rothschild et al. (6,678,703).

(A) As per claim 17, Applicant's Background of the Invention discloses a remotely accessible application service provider (ASP) system (page 2, par. 5) comprising:

(a) a data center including at least one application, said data center including computing power for accessing applications (pages 2-3, par. 5-6); and

(b) a mobile imaging unit wherein said mobile imaging unit is a mobile facility adapted to be used at a plurality of locations (pages 1-2, par. 2-4).

The Applicant's Background of the Invention does not expressly disclose the application being "at least one medical application" or that the mobile imaging unit "accessing the output of medical applications."

Rothschild discloses downloading software programs (reads on "applications") from a website associated with the central data management system or ASP and running the programs on a personal computer, wherein these software programs are used to view, display, and manipulate received medical images (col. 17 line 58 to col. 18 line 7, col. 21 lines 8-12, col. 24 lines 4-37). It is noted that viewing, displaying, and manipulating medical images via software programs is considered to be a form of "accessing the output of the medical application." Rothschild discloses the local image workstation connected to the medical imaging system (reads on "mobile imaging unit") having local ASP software from the ASP (Fig. 1, col. 27 line 60 to col. 28 line 31), wherein the local image workstation is able to directly access images from their own local image workstation or access images in the central storage system (Fig. 1, col. 28 line 52 to col. 29 line 4), and wherein viewing the images is done through software downloaded from the central data management system (col. 24 lines 5-28). It is respectfully submitted that because a local image workstation connected to a medical imaging system is able to view their own images or access images in the central storage system, and in order to view the images viewing software is downloaded from a central system, it appears that Rothschild teaches a form of a mobile imaging unit accessing output (the images") from a medical application (software downloaded).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Rothschild within the system described in Applicant's Background of the Invention with the motivation of providing a means for all radiologists and referring doctors to view images regardless of if they have viewing software on their personal computers (see Rothschild; col. 24 lines 5-23).

(B) As per claim 19, Rothschild discloses radiologists, referring doctors, and image centers downloading software (reads on "healthcare facility") (col. 17 line 58 to col. 18 line 7, col. 21 lines 8-12, col. 24 lines 4-37).

The motivation for including the features of Rothschild within the system described in Applicant's Background of the Invention is given above in claim 17, and incorporated herein.

(C) As per claim 20, Applicant's Background of the Invention discloses the ASP may host, maintain, and deliver (reads on "storing") applications such as email systems, resource planning systems, customer relationship management systems, human resource management systems, and proprietary applications (reads on "administrative applications") to remote clients from the ASP's off-site data center (pages 2-3, par. 5-7).

10. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al. (5,891,035) as applied to claim 21 above, and further in view of Evans (5,924,074).

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(A) As per claim 23, Wood does not expressly disclose an authentication module for authorizing access to the data center from at least one of the healthcare facility and the mobile imaging unit. Evans discloses accessing (reads on “retrieving”) and updating patient data in the patient data repository (reads on “storing”) of the electronic medical records system including authorizing health care providers and providing several levels of security to access patient data by using a tiered password system, wherein a system administrator may have global password access to any patient data whereas a physician may have only access to patient records within their specialty (Fig. 1, col. 4 line 64 to col. 5 line 27, col. 14 line 64 to col. 15 line 7, col. 15 lines 20-32). It is noted that Evan’s tiered password system is considered to be a form of “an authentication module for authorizing access to the data center.” At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Evans within the method of Wood with the motivation of ensuring the security of patient data (Evans; col. 15 lines 20-32).

11. Claims 24-32 and 35-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (5,924,074) in view of Rothschild et al. (6,678,703) and Wood et al. (5,891,035).

(A) As per claim 24, Evans discloses a method for storing patient data in a patient data repository that is accessible from any geographic location (col. 2 line 45 to col. 3 line 3) comprising:

(a) capturing patient data using a point of care system at the point of care of a patient and communicating over a network, such as the Internet (Fig. 24) the patient data to patient data repository (It is noted that capturing and communicating patient data over a network to the patient data repository is considered to be a form of "transmitting medical information") (Fig. 1, col. 2 line 65 to col. 3 line 23, col. 5 line 64 to col. 6 line 27, col. 12 line 54 to col. 13 line 56); and

(b) storing the patient data at the patient data repository (Fig. 24, col. 4 line 64 to col. 5 line 7, col. 13 lines 19-30, col. 14 line 64 to col. 15 line 2, col. 16 lines 44-53).

Evans fails to expressly disclose "a mobile imaging unit" transmitting the information to the data center. Rothschild discloses a medical imaging system (10) that pushes medical images to the central data management system (Fig. 1, col. 18 lines 28-55).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Rothschild within the method of Evans with the motivation of providing immediate electronic delivery and convenient, economic storage of radiologic and other medical images in a location that is accessible over the Internet (Rothschild; col. 1 lines 28-31, col. 2 lines 1-7).

Evans and Rothschild do not expressly disclose that the "mobile imaging unit is a mobile facility adapted to be used at a plurality of locations."

Wood discloses an ultrasound system which processes information to form ultrasonic images, wherein there are a plurality of ultrasound systems having wheels (Fig. 2, #200, #202) (Fig. 1-3, col. 2 line 60 to col. 3 line 10, col. 10 lines 43-56) (It is

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noted that an “ultrasound system” having wheels as is shown in Figure 2 is a “mobile facility” that is capable of being moved to a plurality of locations).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Wood within the method taught collectively by Evans and Rothschild with the motivation of allowing physicians and ultrasound operators to communicate with each other from different locations (Wood; col. 1 line 55 to col. 2 line 7).

(B) As per claims 25 and 27, Evans discloses that accessing (reads on “retrieving”) and updating patient data stored in the patient data repository (reads on “storing”) of the electronic medical records system includes authorizing health care providers and providing several levels of security to access patient data by using a tiered password system, wherein a system administrator may have global password access to any patient data whereas a physician may have only access to patient records within their specialty (Fig. 1, col. 4 line 64 to col. 5 line 27, col. 14 line 64 to col. 15 line 7, col. 15 lines 20-32). It is noted that Evan’s tiered password system is considered to be a form of “authenticating access to the data center.”

(C) As per claim 26, Evans discloses at least one point of care system (see the plurality of healthcare providers in Fig. 24, 416-420) for accessing and retrieving patient data from the patient data repository, wherein the point of care system issues a request for patient data, wherein the patient locator receives the request from the point of care

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system and communicates a patient ID (PID) to the data manager which locates the patient record using the PID, wherein the data manager delivers the requested data to the point of care system (Fig. 24, col. 3 lines 17-23, col. 8 line 61 to col. 9 line 13, col. 9 lines 37-60, col. 14 line 64 to col. 15 line 7, col. 18 lines 43-50).

(D) As per claim 28, Evans discloses a method for storing patient data in a patient data repository that is accessible from any geographic location (col. 2 line 45 to col. 3 line 3) comprising:

(a) capturing patient data using a point of care system at the point of care of a patient and communicating over a network, such as the Internet (Fig. 24) the patient data to patient data repository (It is noted that capturing and communicating patient data over a network to the patient data repository is considered to be a form of “transmitting medical information”) (Fig. 1, col. 2 line 65 to col. 3 line 23, col. 5 line 64 to col. 6 line 27, col. 12 line 54 to col. 13 line 56); and

(b) retrieving patient data from the patient data repository at a point of care system located in a hospital (Fig. 24, col. 3 lines 17-23, col. 5 lines 12-20, col. 8 line 61 to col. 9 line 13, col. 9 lines 37-60, col. 14 line 64 to col. 15 line 7, col. 18 lines 43-50).

Evans fails to expressly disclose “a mobile imaging unit” transmitting the information to the data center. Rothschild discloses a medical imaging system (10) that pushes medical images to the central data management system (Fig. 1, col. 18 lines 28-55).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Rothschild within the method of Evans with the motivation of providing immediate electronic delivery and convenient, economic storage of radiologic and other medical images in a location that is accessible over the Internet (Rothschild; col. 1 lines 28-31, col. 2 lines 1-7).

Evans and Rothschild do not expressly disclose that the "mobile imaging unit is a mobile facility adapted to be used at a plurality of locations."

Wood discloses an ultrasound system which processes information to form ultrasonic images, wherein there are a plurality of ultrasound systems having wheels (Fig. 2, #200, #202) (Fig. 1-3, col. 2 line 60 to col. 3 line 10, col. 10 lines 43-56) (It is noted that an "ultrasound system" having wheels as is shown in Figure 2 is a "mobile facility" that is capable of being moved to a plurality of locations).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Wood within the method taught collectively by Evans and Rothschild with the motivation of allowing physicians and ultrasound operators to communicate with each other from different locations (Wood; col. 1 line 55 to col. 2 line 7).

(E) As per claim 29, Evans discloses a system for communication between a point of care system and a health care facility (Fig. 24) comprising:

(a) a point of care system for capturing patient data, such as patient history and results of an examination useful for making a diagnosis (reads on "medical diagnostic

information”) at the point of care of a patient and communicating over a network, such as the Internet (Fig. 24), the patient data to the patient data repository (It is noted that capturing and communicating patient data over a network to the patient data repository is considered to be a form of “transmitting medical diagnostic information”) (Fig. 1, col. 2 line 65 to col. 3 line 23, col. 5 line 64 to col. 6 line 27, col. 12 line 54 to col. 13 line 56);

(b) a patient data repository for receiving annotated and updated patient data from the point of care system, storing the patient data, and communicating the patient data over a network (Fig. 12, 24, col. 4 line 64 to col. 5 line 7, col. 13 lines 19-30, col. 14 line 64 to col. 15 line 2, col. 16 lines 44-53); and

(c) a health care facility, such as a healthcare provider in Boston, for accessing patient data from the patient data repository (Fig. 24, col. 13 lines 23-30).

Evans fails to expressly disclose “a mobile imaging unit” transmitting the information to the data center. Rothschild discloses a medical imaging system (10) that pushes medical images to the central data management system (Fig. 1, col. 18 lines 28-55).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Rothschild within the method of Evans with the motivation of providing immediate electronic delivery and convenient, economic storage of radiologic and other medical images in a location that is accessible over the Internet (Rothschild; col. 1 lines 28-31, col. 2 lines 1-7).

Evans and Rothschild do not expressly disclose that the “mobile imaging unit is a mobile facility adapted to be used at a plurality of locations.”

Wood discloses an ultrasound system which processes information to form ultrasonic images, wherein there are a plurality of ultrasound systems having wheels (Fig. 2, #200, #202) (Fig. 1-3, col. 2 line 60 to col. 3 line 10, col. 10 lines 43-56) (It is noted that an “ultrasound system” having wheels as is shown in Figure 2 is a “mobile facility” that is capable of being moved to a plurality of locations).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Wood within the method taught collectively by Evans and Rothschild with the motivation of allowing physicians and ultrasound operators to communicate with each other from different locations (Wood; col. 1 line 55 to col. 2 line 7).

(F) As per claim 30, Rothschild discloses a website associated with the central data management system having programs that are capable of being downloaded (reads on “capable of storing medical applications”) (col. 17 line 58 to col. 18 line 7, col. 21 lines 8-12, col. 24 lines 4-37). The Examiner respectfully submits that if these programs are downloadable from a website associated with the central data management system, they would also be “capable of” being executed by the servers associated with the central data management system (Fig. 1, col. 21 lines 9-17, col. 17 line 58 to col. 18 line 7, col. 21 lines 8-12, col. 24 lines 4-37). The motivation for including the features of Rothschild within the system described in Applicant’s Background of the Invention is given above in claim 29, and incorporated herein.

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(G) As per claim 31, Rothschild discloses the local image workstation connected to the medical imaging system (reads on “mobile imaging unit”) having local ASP software from the ASP for performing their role in integrating the storage and communication of images using workflow software (Fig. 1, col. 27 line 60 to col. 28 line 31), wherein the local image workstation is able to directly access images from their own local image workstation or access images in the central storage system (Fig. 1, col. 28 line 52 to col. 29 line 4), and wherein viewing the images is done through software downloaded from the central data management system (col. 24 lines 5-28). It is respectfully submitted that because a local image workstation connected to a medical imaging system has its own local ASP software, this is considered to be a form of “executing medical applications via said data center.” The motivation for including the features of Rothschild within the system described in Applicant’s Background of the Invention is given above in claim 29, and incorporated herein.

(H) As per claim 32, Rothschild discloses downloading software programs by a radiologist, imaging center, or referring doctor from a website associated with the central data management system or ASP (reads on “data center”) and running the programs on a personal computer, wherein these software programs are used to view, display, and manipulate received medical images (col. 17 line 58 to col. 18 line 7, col. 21 lines 8-12, col. 24 lines 4-37). The motivation for including features of Rothschild within Evans is given above in claim 29, and incorporated herein.

(I) As per claim 35, Evans discloses analyzing patient data patient records stored in the patient data repository via the point of care system (reads on "health care facility"), wherein the point of care system is remote from the patient data repository (Fig. 24, col. 4 line 64 to col. 5 line 28).

(J) As per claim 36, Evans discloses organizing and storing patient data from a plurality of geographic locations at the patient data repository using a point of care system in a hospital, wherein the patient is able to access and update patient information stored in the patient data repository (Fig. 24, col. 2 line 45 to col. 3 line 16, col. 14 line 64 to col. 15 line 7).

Response to Arguments

12. Applicant's arguments filed 8 February 2006 have been fully considered but they are not persuasive. Applicant's arguments will be addressed in the order in which they appear in the response filed 8 February 2006.

(A) At pages 9-14 of the response filed 8 February 2006, Applicant argues that the applied prior art fails to teach the newly added features.

In response, all of the limitations which Applicant disputes as missing in the applied references, including the features newly added in the 8 February 2006 amendment, have been fully addressed by the Examiner as either being fully disclosed or obvious in view of the collective teachings of Wood, Evans, Rothschild, and/or

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Applicant's Background of the Invention, based on the logic and sound scientific reasoning of one ordinarily skilled in the art at the time of the invention, as detailed in the remarks and explanations given in the preceding sections of the present Office Action, and incorporated herein.

It is noted that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In addition, it is respectfully submitted that the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

(B) At pages 9-10 of the response filed 8 February 2006, Applicant argues that Wood '035 fails to teach "using the ultrasound system at more than one healthcare facility" or "a mobile imaging unit adapted to be used at a plurality of locations."

First, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "using the ultrasound system at more than one healthcare facility" or a mobile imaging unit that is "mobile beyond the confines of a room or single healthcare facility") are not recited in the rejected claim(s). Although the claims are interpreted in light of

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the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Second, in response to applicant's argument that "the mobile imaging unit is adapted to be used at a plurality of locations," a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

In this case, Wood '035 teaches a plurality of ultrasound systems having wheels (See Figure 2). The ultrasound systems of Wood are mobile imaging units that are "adapted to be used" at a plurality of locations. It is unclear to the Examiner how an ultrasound system having wheels is not able to be "moved beyond the confines of a room or single healthcare facility." As such, Wood is capable of performing the intended use that is recited in claim 21. It is suggested that if there is a difference between Applicant's claimed "mobile imaging unit" and the teachings of the Wood reference, that Applicant focus on the structural differences between the two systems rather than on the use of the system.

Third, it is noted that in Applicant's specification at page 1, Applicant describes a mobile imaging unit as equipment such as "MR, CT, and the like to facilitate medical examination of patients." Wood's teachings of an ultrasound system are a form of Applicant's mobile imaging unit based on the description in Applicant's specification. Because Applicant has not provided a strict definition of a "mobile imaging unit" within

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the specification, the Examiner has given the claim language the broadest interpretation and has applied art accordingly.

(C) At pages 10-11 and 13, Applicant argues that Wood '186 fails to teach "using the ultrasound system at more than one healthcare facility" or "a mobile imaging unit adapted to be used at a plurality of locations" as recited in claim 1.

First, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "using the ultrasound system at more than one healthcare facility" or a mobile imaging unit that is "mobile beyond the confines of a room or single healthcare facility") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Second, in response to applicant's argument that "the mobile imaging unit is adapted to be used at a plurality of locations," a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

In this case, Wood '186 teaches a plurality of ultrasound systems having wheels (See Figures 15-17). The ultrasound systems of Wood are mobile imaging units that are "adapted to be used" at a plurality of locations. It is unclear to the Examiner how an

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ultrasound system having wheels is not able to be “moved beyond the confines of a room or single healthcare facility.” As such, Wood is capable of performing the intended use that is recited in claim 1. It is suggested that if there is a difference between Applicant’s claimed “mobile imaging unit” and the teachings of the Wood reference, that Applicant focus on the structural differences between the two systems rather than on the use of the system.

Third, it is noted that in Applicant’s specification at page 1, Applicant describes a mobile imaging unit as equipment such as “MR, CT, and the like to facilitate medical examination of patients.” Wood’s teachings of an ultrasound system are a form of Applicant’s mobile imaging unit based on the description in Applicant’s specification. Because Applicant has not provided a strict definition of a “mobile imaging unit” within the specification, the Examiner has given the claim language the broadest interpretation and has applied art accordingly.

In response to Applicant’s arguments at pages 11-12 discussing the rejections of claims 6, 12, and 16, it is noted that Rothschild was not relied on for teaching “mobile imaging units.” The Examiner relied on Wood ‘186 for this teaching, which is discussed in the preceding paragraphs of this section.

(D) At pages 12-13, Applicant argues that there is no motivation to combine Applicant’s Background of the Invention with Rothschild because Rothschild does not teach mobile imaging units.

In response, it is respectfully submitted that Rothschild was not relied on for teaching "mobile imaging units." In addition, in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the Examiner has provided a motivation directly from the references themselves. Note the motivation provided in the rejection of claim 17 "providing a means for all radiologists and referring doctors to view images regardless of if they have viewing software on their personal computers (see Rothschild; col. 24 lines 5-23)."

(E) Applicant's arguments related to claim 23 on page 13 of the response filed 8 February 2006 rehash or rely on the same arguments discussed in section A above.

(F) Applicant's arguments on pages 13-14 related to claims 24, 28, and 29 rehash or rely on the same arguments discussed in section A above. It is noted that neither Evans nor Rothschild were relied on for teaching the feature of "mobile imaging units." The Examiner relied on Wood '035.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn Bleck whose telephone number is (571) 272-6767. The Examiner can normally be reached on Monday-Thursday, 8:00am – 5:30pm, and from 8:30am – 5:00pm on alternate Fridays.

14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached at (571) 272-6776.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

15. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

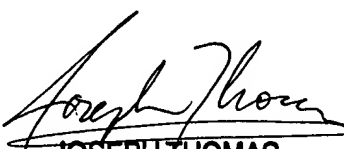
(571) 273-8300	[Official communications]
(571) 273-8300	[After Final communications labeled "Box AF"]
(571) 273-6767	[Informal/ Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand-delivered responses should be brought to the Knox Building, Alexandria, VA.

CB

CB

April 6, 2006


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER